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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[ED-2019-OSERS-0001]

Final priority and definitions--State Personnel Development Grants

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

ACTION: Final priority and definitions.

SUMMARY: The Department of Education (Department) announces a priority and definitions under the State Personnel Development Grants program, Catalog of Federal Domestic Assistance (CFDA) number 84.323A. The Department may use this priority and definitions for competitions in fiscal year (FY) 2020 and later years. We take this action to focus attention on an identified national need to provide teachers and other personnel who serve children with disabilities the option to select professional development activities that will best meet their needs. This priority will support States in developing pilots or other innovative means of providing choice in professional development.

Effective Date: This priority and definitions are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the State Personnel Development Grants program is to assist State educational agencies (SEAs) in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

Program Authority: 20 U.S.C. 1451-1455.

We published a notice of proposed priority and definitions (NPP) for this program in the *Federal Register* on April 24, 2020 (85 FR 22972). The NPP contained background information and our reasons for proposing the particular priority and definitions.

There are minor differences between the NPP and this notice of final priority and definitions (NFP) as discussed in the Analysis of Comments and Changes section of this notice.

Public Comment: In response to our invitation in the NPP, 18 parties submitted comments on the proposed priority and definitions. Generally, we do not address technical and other minor changes. In addition, we do not address comments that raised concerns not directly related to the proposed priority and definitions. An analysis of the comments and of any changes in the priority and definitions since publication of the NPP follows.

Analysis of Comments and Changes:

Comment: Several commenters, especially personnel who have heavy or challenging workloads, expressed concern that some teachers and other personnel could not readily assess their professional development needs and thus not improve critical skills for serving children with disabilities. A few commenters shared that within a multi-tiered system of support, student and school data are analyzed to determine professional development needs and that the proposed priority did not lend itself to a data-based approach to choosing professional development options. Some commenters specified that students with disabilities need coordinated

efforts between administrators, teachers, and other personnel and that allowing individuals to choose their professional development activities would prevent a coordinated approach.

Discussion: The Department appreciates the responses to the NPP. The Department believes that States and local agencies and programs will develop innovative ways to support personnel in assessing their needs and connecting those needs with effective professional development choices. Additionally, two other priorities for this program--the State Personnel Development Grants (SPDG) statutory priority from sections 651 through 655 of the Individuals with Disabilities Education Act (IDEA), as amended by the Every Student Succeeds Act (ESSA), and the priority for this program published in the *Federal Register* on August 2, 2012 (77 FR 45944) related to the effective and efficient delivery of personnel development--are priorities that lend themselves to a data-driven and coordinated approach for assessing and providing professional development needs to assist personnel who work with children with disabilities. Because we expect to use the Choice in Professional Development priority in combination with both of the other two priorities, at this time, the Department does not believe changes to the Choice

in Professional Development priority are warranted.

Changes: None.

Comment: One commenter expressed concern that teachers and other personnel would have a difficult time determining the appropriate interventions for the children with disabilities they serve.

Discussion: The proposed Choice in Professional Development priority is not meant to replace the two SPDG priorities discussed above, which focus activities on identified needs in the State, such as assisting teachers and other personnel in choosing effective interventions to improve the outcomes of children with disabilities. As described in the NPP, a State could use this new priority to support local agencies and programs in selecting a subset of personnel who work with children with disabilities to choose their professional development activities. These could be practitioners who have demonstrated success in selecting interventions and who desire to increase their skills in a specific area, such as leadership. Or it could be a group of personnel, such as teachers of children who are deaf and blind, who have unique professional development needs.

Changes: None.

Comment: Several commenters spoke to the continued need

for a systemic approach, including the use of implementation science, when meeting professional development needs. Systemic preparation and professional development plans that address State and local needs were noted as critical for large scale improvement. Additionally, commenters noted that planning for use of SPDG funds must include a cadre of important stakeholders, such as educators, principals, administrators, related services personnel, early intervention personnel and others. The commenters expressed concern that the new priority would not support this planning process and would undermine both the requirements of the law and important planning and alignment between the use of the SPDG funding and the SEA's goals for its education standards, certification requirements, and continuing education that systematically address State and local needs.

Discussion: While the Department appreciates the commenters' concerns, we also believe that this priority could enable SEAs to strengthen their professional development activities consistent with State and local personnel needs. Pilot efforts supported under this priority could be part of a larger professional development system that uses SPDG funds to reform and improve personnel development throughout the State. Planning for use of SPDG

funds, described by the SPDG statutory priority from sections 651 through 655 of IDEA, as amended by the ESSA, requires planning with key stakeholders such as those listed by the commenters. Identifying local educational agencies (LEAs) and early childhood programs where choice in professional development may be most useful could be determined during this planning as well. Providing professional development choice for personnel within the systemic SPDG effort may increase States' impact on personnel practice and thus on child outcomes. The SPDG statutory priority requires States to assess their needs and align their goals with those needs, as appropriate. These requirements apply equally to the Choice in Professional Development priority.

In response to concerns related to implementation science, the SPDG Government Performance Results Modernization Act of 2010 (GPRA) measures require projects to assess their use of implementation science principles when developing a professional development system. Specifically, an evidence-based professional development rubric is used to measure projects' use of implementation science strategies in their professional development activities. Additionally, projects use intervention fidelity measures to demonstrate changes in personnel

practice as a result of participation in professional development. Finally, the effort provided for coaching or mentoring supports is reported by projects. The Department intends to use these GPRA measures for funded projects that respond to the Choice in Professional Development priority.

Changes: We have added requirements aligned with the GPRA measures for applicants responding to the Choice in Professional Development priority. The added requirements are in paragraph (e) under the Final Priority section of the NFP.

Comment: A number of commenters expressed concern that having individuals choose their professional development activities would prevent States from working toward a larger collective goal, such as increasing teachers' expectations for children with disabilities. In addition, commenters stated that the proposed priority would be a deterrent to using SPDG funds for results-driven accountability and efforts related to the State Systemic Improvement Plan (SSIP).

Discussion: The Department agrees with the commenters that it is important for State agencies to work toward larger goals. All applicants must address the SPDG statutory priority that requires projects to identify and address the State and local needs for the personnel preparation and

professional development of personnel, as well as individuals who provide direct supplementary aids and services to children with disabilities. The needs may align with the needs identified for the SSIP, and the SPDG professional development activities could be used to help reach the State-identified measurable result. Accordingly, the Department does not believe further clarification of the proposed priority is warranted.

Changes: None.

Comment: Some commenters were unsure how the impact of professional development activities would be assessed under this priority. The commenters specified that all professional development efforts should be chosen based on need and effectiveness data and that intervention fidelity and impact on child outcomes should be assessed.

Discussion: The Department agrees with the commenters regarding the need to assess the impact of the professional development activities on personnel skills and the corresponding improvement in child outcomes. The SPDG GPRA measures include both a measure of implementation fidelity and a measure of child outcomes. The Department intends to use these GPRA measures for funded projects that respond to the Choice in Professional Development priority.

Changes: We have added requirements aligned with the GPRA

measures for applicants responding to the Choice in Professional Development priority. The added requirements are in paragraph (e) under the Final Priority section of the NFP.

Comment: Several commenters described the importance of aligning individuals' professional development with local program, school, district, and State initiatives and the need for the State and local entities to coordinate their efforts. Further, a number of commenters described the importance of a coordinated and integrated approach to professional development that encourages collaboration across personnel who work with children with disabilities. Specifically, the commenters described how teams working with children with disabilities benefit from a coordinated set of skills and knowledge and how individually chosen professional development activities might detract from a cohesive approach.

Discussion: The Department agrees that aligning professional development activities with early childhood program, school, district, region, and State priorities and improvement efforts is important. Under this priority, local programs and districts could provide a menu of professional development activities that could assist teachers and other personnel in developing their skills in

areas that align with their State or local agency's improvement efforts. The Department believes that an innovative approach to providing choice that aligns those choices with ongoing improvement efforts is possible. Further, the Department fully supports coordinating efforts at all levels of the early childhood and education systems.

Also, the Department agrees that the teams supporting children with disabilities should take a coordinated approach in their efforts. The individuals on that team, however, may have varying professional development needs. The structure of the team provides an opportunity to bring the diverse skills and knowledge of the team members together in a way that best serves the needs of the child. Accordingly, the Department does not believe changes to the priority are necessary.

Changes: None.

Comment: Some commenters stated that State policies concerning certification requirements and LEA priorities cannot and should not be superseded by individuals' professional development choices. Additionally, some of these commenters expressed concern about administrators no longer having authority over the professional development choices of their staff and that this would strip administrators of the ability to be instructional leaders.

Discussion: The Choice in Professional Development

priority does not supersede State and local certification requirements or the ability of administrators to choose the professional development activities provided to personnel. Personnel will continue to be subject to State and local certification requirements, and administrators retain existing authority to mandate professional development activities. Under the Choice in Professional Development priority, an administrator could create a menu of choices for personnel who work with children with disabilities or identify another way to ensure the choices available align with the administrative priorities at the local and State levels, as appropriate. Providing choices to individuals do not preclude the involvement of administrators or alignment with larger improvement efforts. Therefore, the Department does not believe changes to the priority are necessary.

Changes: None.

Comment: A few commenters asked how a State could scale the professional development found to be effective under this priority.

Discussion: The Department believes that States and local agencies and programs will find innovative ways to integrate effective professional development activities

into their overall SPDG efforts. For example, if an intensive literacy approach is found to be effective in improving reading ability for children with disabilities and SPDG funds are being used to implement a multi-tiered system of supports (MTSS), the intensive literacy approach could be integrated into the larger MTSS effort.

Changes: None.

Comment: One commenter asked that we incorporate into the priority the concept of "personnel instructional autonomy," which the commenter defined as possessing meaningful choice and voice in choosing high-quality evidence-based professional development in a comprehensive system. The commenter further suggested that student outcome and school fidelity data be used to determine the areas where schools and districts focus for professional development and that State standards for students guide teacher choice and voice.

Discussion: The Department agrees with the essence of the description the commenter provided. This description corresponds with the Department's perspective on the importance of providing meaningful choice in professional development. States have the option to create an operational definition of choice consistent with the needs of personnel in their State. Therefore, it is not

necessary for the Department to provide a definition of choice for this priority.

Changes: None.

Comment: One commenter stated that the priority would prevent States from preparing personnel and further developing their skills. Other commenters shared that having a structure in place for ongoing teacher support and enrichment, beyond the initial training they receive, is vital if teachers are to implement evidence-based practices with fidelity. They expressed concern that ongoing support in the form of coaching or professional learning communities cannot be adequately addressed when personnel have autonomy in making their professional development choices.

Discussion: The Department expects that States and local agencies and programs will develop innovative ways to provide personnel with professional development options that prepare them to meet the needs of children with disabilities. Professional development options will need to provide fidelity measures for the practices or programs that are the focus of the professional development activities. Consistent with new program application requirements, the professional development activities chosen must have fidelity measurement tools that coaches or

professional learning communities can then use to assess implementation and connect that implementation to impact on child outcomes.

Changes: None.

Comment: Some commenters stated that the SPDG should contribute to the education infrastructure and that this priority dilutes the limited SPDG resources. They recommended that SPDG funds be focused to have the largest systemic impact possible and expressed concern that providing special education teachers and other personnel the autonomy to select professional development activities based on their individual needs will prove disruptive and detrimental to the core purpose of the SPDG program.

Discussion: This priority is provided to assist States and local agencies in fully engaging in the professional development of teachers and other personnel who serve children with disabilities. For the reasons explained throughout the Department's responses to previous comments, the Department does not agree that this priority will undermine the purpose of the SPDG program. Accordingly, the Department does not believe that changes to the priority are needed.

Changes: None.

Comment: One commenter was concerned that rural personnel

would not be able to make use of professional development choice.

Discussion: Online synchronous and asynchronous training and coaching have become more available and more effective in recent years (Coogle et al., 2018; Gregory et al., 2017). Personnel in rural areas could access training and coaching virtually, as appropriate, and as such, the Department does not believe this priority prohibits participation from rural personnel.

Changes: None.

Comment: One commenter stated that this priority did not meet the rigorous standard for professional development under the Elementary and Secondary Education Act, as amended (ESEA), and adopted by IDEA and would not support professional learning that is sustained, collaborative, school-based, and job-embedded. Other commenters felt that the professional development described in the priority does not meet best practice standards for effective professional development.

Discussion: The Department expects that States and local entities will work together to provide professional development choices that are sustained and that support the important work of teachers and other personnel who serve children with disabilities. Additionally, collaborative

efforts, such as professional learning communities, should remain intact. Personnel who receive professional development under this priority will be assessed for the fidelity of implementation for the professional development options they choose. These personnel should receive coaching or mentoring, and should have the opportunity to review fidelity and child data with fellow practitioners. The professional learning offered in response to this funding priority must comply with the standards in the ESEA and IDEA, as amended by ESSA, as applicable. For these reasons, the Department believes that SPDG projects will continue to meet best practice standards.

Changes: None.

Comment: A few commenters felt the standard for evidence set for professional development activities was too low.

Discussion: Applications for this discretionary program undergo a rigorous peer review. The reviewers have expertise in professional development and will use this expertise to assess proposed projects based on their ability to meet the program requirements, as well as the extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the beneficiaries of those

services.

Changes: None.

Comment: A few commenters expressed there was not sufficient evidence to support choice in professional development as described in this priority.

Discussion: Sparks and Malkus (2015) found evidence that teacher autonomy is positively associated with teachers' job satisfaction and teacher retention (Guarino, Santibañez, and Daley 2006; Ingersoll and May 2012). The Department seeks to improve the retention of personnel by supporting personnel choice.

Changes: None.

Comment: Some commenters contended this priority would place an undue burden on States. One of these commenters felt it would be exceptionally difficult for new applicants to respond to the priority. Another commenter was concerned that evaluating individual teachers' professional development activities would be impractical for States, especially more rural States.

Discussion: This priority is provided to assist States with fully engaging teachers and other personnel who serve children with disabilities in their professional development. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory

action will be limited to the paperwork burden related to preparing an application, as the costs of carrying out activities associated with the application will be paid for with program funds. Accordingly, the Department does not believe that changes to the priority are needed.

Changes: None.

Comment: One commenter shared that Parent Centers bring direct experience and expertise in family engagement to the learning and experiences of personnel. The commenter contended it would be extremely difficult to bring this experience, expertise, and perspective to an individual stipend program under the priority.

Discussion: The Department agrees that family engagement is critical to the success of all children, and especially children with disabilities. The requirement that an SPDG project must contract or subgrant with an OSEP-funded parent training and information center (PTI), or community parent resource center (CPRC), as appropriate, remains intact and family engagement remains a focus for all SPDG priorities. Planning for this work with key stakeholders, such as family members of children with disabilities and parent centers, continues to be a requirement under the SPDG statutory priority.

Changes: None.

References:

- Coogle, C. G., Ottley, J. R., Rahn, N. L., & Storie, S. (2018). Bug-in-ear eCoaching: Impacts on novice early childhood special education teachers. *Journal of Early Intervention, 40*(1), 87-103.
<https://doi.org/10.1177/1053815117748692>.
- Gregory, A., Ruzek, E., Hafen, C. A., Yee Mikami, A., Allen, J. P., & Pianta, R. C. (2017). My Teaching Partner-Secondary: A video-based coaching model. *Theory into practice, 56*(1), 38-45.
<https://doi.org/10.1080/00405841.2016.1260402>.
- Guarino, C.M., Santibañez, L., and Daley, G.A. (2006). Teacher Recruitment and Retention: A Review of the Recent Empirical Literature. *Review of Educational Research, 76*, 173-208.
- Ingersoll, R., & May, H. (2012). The magnitude, destinations, and determinants of mathematics and science teacher turnover. *Educational Evaluation and Policy Analysis, 34*(4), 435-464.
- Sparks, D., & Malkus, N. (2015). Public school teacher autonomy in the classroom across school years 2003-04, 2007-08, and 2011-12. *Stats in Brief*. NCES 2015-089. National Center for Education Statistics.

FINAL PRIORITY:

Choice in Professional Development.

The purpose of this priority is to fund SPDG grants to SEAs that empower teachers and other personnel to select professional development activities that meet their individual needs to improve results for children with disabilities. States will meet the priority if they describe in their application how they will develop personalized professional development projects to carry out their State plan under section 653 of IDEA and implement professional development activities that are consistent with the use of funds provisions in section 654 of IDEA. This would be accomplished by using funds under the SPDG program for stipends or other mechanisms to provide personnel with choice in selecting professional development options that will count toward State or local professional development requirements, as appropriate, such as the number of hours personnel must fill or the competencies they must acquire to obtain or retain certification, and that are designed to meet their individual needs and thus improve results for children with disabilities.

Applicants must--

(a) Demonstrate, in the narrative section of the application under "Significance," how the proposed project will develop personalized professional development

activities using stipends or other mechanisms that provide personnel choice in professional development options designed to meet their individual needs and count toward State or local professional development requirements and thus improve results for children with disabilities;

(b) Describe how the State will select the individual(s) or groups of personnel that will be provided with professional development options, including the extent to which applicants will prioritize selecting individuals or groups of personnel serving rural children with disabilities or disadvantaged children with disabilities, such as children from low-income families. If applicable, applicants should specify how they will prioritize personnel if demand for professional development among the individuals or groups of personnel that the applicant proposes to serve exceeds what available funds can support;

(c) Describe how the State will create a list of approved professional development options that meet the requirements of the SPDG program. This description should include how the applicant will engage with a range of stakeholders, including school administrators, personnel serving students with disabilities, families of students with disabilities and individuals with disabilities, and other State or local agencies serving individuals with

disabilities, such as juvenile justice agencies, to determine which professional development options it will offer. Specifically, professional development options must--

(1) Use evidence-based (as defined in this notice) professional development methods that will increase implementation of evidence-based practices and result in improved outcomes for children with disabilities;

(2) Include ongoing assistance that supports the implementation of evidence-based practices with fidelity (as defined in this notice); and

(3) Use technology to more efficiently and effectively provide ongoing professional development to personnel, including to personnel in rural areas and in urban or high-need local educational agencies (LEAs) (as defined in this notice);

(d) If applicable, describe the steps that personnel would need to take to request professional development options not already on a list of approved professional development options, the justification that personnel would need to provide to demonstrate how the selected options would improve results for children with disabilities, and how personnel would be notified if their request was approved or disapproved in writing and within 14 days; and

(e) Describe—

(1) The extent to which the proposed project will use professional development practices supported by evidence to support the attainment of identified competencies;

(2) How improvement in implementation of SPDG-supported practices over time will be demonstrated by participants in SPDG professional development activities;

(3) The extent to which the proposed project will use SPDG professional development funds to provide activities designed to sustain the use of SPDG-supported practices;

(4) How the proposed project will determine whether special education teachers who meet the qualifications described in section 612(a)(14)(C) of IDEA, as amended by the ESSA, that have participated in SPDG-supported special education teacher retention activities remain as special education teachers two years after their initial participation in these activities; and

(5) How the proposed project will assess whether and to what extent the project improves outcomes for children with disabilities.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational

through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

FINAL DEFINITIONS:

The Department establishes the following definitions for use with this priority and requirements, and with the SPDG program. We establish these definitions to ensure that applicants have a clear understanding of how we are using these terms. We use definitions the Department has adopted elsewhere and provide the source of existing

definitions in parentheses.

Evidence-based means the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale. (34 CFR 77.1)

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (e.g., sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbook (version 3.0):

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns

the project component being evaluated using a measured variable (e.g., assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (e.g., a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment. (34 CFR 77.1)

Fidelity means the delivery of instruction in the way in which it was designed to be delivered. (77 FR 45944)

High-need LEA means, in accordance with section 2102(3) of the ESEA, an LEA--

(a) That serves not fewer than 10,000 children from families with incomes below the poverty line (as that term is defined in section 8101(41) of the ESEA), or for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line; and

(b) For which there is (1) a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach, or (2) a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

Lead agency means the agency designated by the State's Governor under section 635(a)(10) of IDEA and 34 CFR 303.120 that receives funds under section 643 of IDEA to administer the State's responsibilities under part C of IDEA. (34 CFR 303.22)

Local educational agency (LEA) means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools. (Section 602(19) of IDEA (20 U.S.C. 1401(19)))

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (e.g., training teachers on instructional practices for English learners and follow-on coaching for these teachers). (34 CFR 77.1)

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a

relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a "strong evidence base" or "moderate evidence base" for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a "positive effect" or "potentially positive effect" on a relevant outcome with no reporting of a "negative effect" or "potentially negative effect" on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that--

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (e.g., a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (i.e., favorable) effect on a relevant outcome. (34 CFR 77.1)

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the

treatment group in important respects. This type of study, depending on design and implementation (e.g., establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook. (34 CFR 77.1)

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program. (34 CFR 77.1)

State educational agency (SEA) means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law. (Section 602(32) of IDEA (20 U.S.C. 1401(32)))

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

- (i) A practice guide prepared by the WWC using

version 2.1 or 3.0 of the WWC Handbook reporting a "strong evidence base" for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a "positive effect" on a relevant outcome based on a "medium to large" extent of evidence, with no reporting of a "negative effect" or "potentially negative effect" on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that--

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (i.e., favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (e.g., State, county, city, school district, or postsecondary campus) and includes at least 350 students or

other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement. (34 CFR 77.1)

What Works Clearinghouse Handbook (WWC Handbook) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the Handbook documentation. (34 CFR 77.1)

Note: The What Works Clearinghouse Procedures and Standards Handbook (Version 3.0), as well as the more recent What Works Clearinghouse Handbooks released in October 2017 (Version 4.0) and January 2020 (Version 4.1), are available at <https://ies.ed.gov/ncee/wwc/Handbooks>.

This document does not preclude the Department from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use this priority and definitions, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the

rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a "major rule," as defined by 5 U.S.C. 804(2).

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because this regulatory action is not significant, the requirements of Executive Order 13771 do not apply.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in

Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use

the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority and definitions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and

activities.

Discussion of Potential Costs and Benefits

The Department believes that the costs associated with this final priority and definitions will be minimal, while the benefits are significant. The Department believes that this regulatory action does not impose significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action will be limited to paperwork burden related to preparing an application. The benefits of implementing the program--to assist SEAs in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities--will outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be burdensome for eligible applicants, including small entities.

Paperwork Reduction Act of 1995

The final priority and definitions contain information collection requirements that are approved by OMB under OMB control number 1820-0028; the final priority and

definitions do not affect the currently approved data collection.

Regulatory Flexibility Act Certification: The Secretary certifies that this final regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this final regulatory action will affect are SEAs of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). We believe that the costs imposed on an applicant by the final priority and definitions will be limited to paperwork burden related to preparing an application and that the benefits of this final priority and these final definitions

will outweigh any costs incurred by the applicant.

Participation in the SPDG program is voluntary. For this reason, the final priority and definitions will impose no burden on small entities unless they apply for funding under the program. We expect that in determining whether to apply for SPDG program funds, an eligible entity will evaluate the requirements of preparing an application and any associated costs, and weigh them against the benefits likely to be achieved by receiving an SPDG program grant. An eligible entity will probably apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the final priority and definitions will not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the final action. That is, the length of the applications those entities would submit in the absence of the final regulatory action and the time needed to prepare an application will likely be the same.

This final regulatory action will not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program.

Intergovernmental Review: This program is subject to

Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Mark Schultz,
*Commissioner, Rehabilitation
Services Administration,
Delegated the authority to perform
the functions and duties of the
Assistant Secretary for the Office
of Special Education and
Rehabilitative Services.*

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